IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5434 of 2000

DATED: 10.4.2007

Between:

Mohd Ayub Khan — petitioner

And

Industrial Tribunal cum Labour Court,
Warangal & another — Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 5434 OF 2000

ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating

to the award passed by the Labour Court, Warangal in I.D. No. 452 of 1987 and quash the same and to direct the second respondent to reinstate the petitioner as N.M.R man mazdoor with full back wages and other benefits.

The petitioner claims that he worked as Man Mazdoor from 21.12.1984 to 30.8.1985 under the control of second respondent and he was prevented from attending the duty from 1.9.1985. The petitioner states that his duty hours are from 6.00 a.m to 12.00 noon and again from 5.00 p.m to 8.00 pm at the residence of Deputy Executive Engineer and that he joined the Intermediate course in a college having working hours from 1.30 p.m to 4.30 p.m, which do not in any way affect his working hours at the residence of the Deputy Executive Engineer. Questioning the oral termination, petitioner approached the labour Court by filing I.D. No. 452 of 1987. The Labour Court by its award dated 28.4.1988 rejected the claim of the petitioner. Questioning the said order, the petitioner preferred W.P. No. 11976 of 1991 and the said writ petition was disposed of by order dated 23.9.1999 remanding the matter to Labour Court to record categorical findings as regards abandonment of services of the petitioner.

In pursuance of the directions of this Court dated 23.9.1999, the Labour Court reconsidered the matter and passed an award dated 3.12.1999 holding that the petitioner voluntarily abandoned the services in the office of the respondent from 1.9.1985 and petitioner is not entitled to any relief either for reinstatement or other benefits against the respondent. Questioning the said award, the present writ petition is filed.

A counter affidavit is filed on behalf of the second respondent denying the averments made in the writ petition and stating that normally Casual NMR labour are deputed at work site and their duty hours are from 8.00 A.M to 1.00 P.M and from 2.30 P.M to 5.30 P.M. It is specifically stated that no college will function for three hours per day from 1.30 p.m to 4.30 p.m and contended that the petitioner has abandoned the services for prosecuting his studies.

Heard learned counsel for petitioner, learned Government Pleader for Irrigation and Command Area Development and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic

tribunal

based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, the Labour Court, in pursuance of the directions of this Court dated 23.9.1999, has reconsidered the matter and having regard to the oral and documentary evidence available on record, recorded its findings on the aspect of abandonment of the services of the petitioner, which reads as under;

> "On the question of fact, this Court has no hesitation to hold that petitioner voluntarily abandoned the services in the employment of the respondent w.e.f. 1.9.1985 and pursued his studies in Intermediate for two years in Mahabubia Panjathan College, Warangal. The said fact is proved by oral and documentary evidence. There is no oral or written orders by terminating the services of the petitioner by the respondent or any officer under his control. So, the said abandonment of service of the petitioner would not come within the purview of definition of "Retrenchment" under section 2 (oo) of the I.D.Act……..
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> It is a clear case of abandonment not amounting to termination or retrenchment by the employer. So petitioner is not entitled for any relief under Section 2 –A (2) of the I.D. Act as there was no termination of the petitioner by the respondent in any manner what-so-ever."

In view of the specific findings given by the Labour based on evidence available on record, that the petitioner has voluntarily abandoned the services not amounting to termination or retrenchment by the employer held that he is not entitled to any relief under section 2-A (2) of the I.D.Act, I see no reason to interfere with the award of the labour court.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

DATE: 10.4.2007
TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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[1] 2005 (3) SCC 254